

MILPERSMAN 1920-110

INVOLUNTARY RELEASE FROM ACTIVE DUTY OF RESERVE OFFICERS

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Governing Directives	10 U.S.C. 14508, 14705, 14706, 12683, 12684, 12685, 12686, 12731, and 12311 SECNAVINST 1920.6A
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1. **Criteria for Release.** Naval Reserve officers shall be involuntarily released from active duty as follows:

a. **Failure to select.** Naval Reserve officers on the active duty list in the grades of O-5 and below, whose names are not on a promotion list and twice fail of selection for promotion to the next higher grade, shall be involuntarily released from active duty no later than the 1st day of the 7th calendar month beginning the month after the report of the selection board, which considered the officer for the second time, is approved. However, officers subject to separation under this paragraph may be selectively retained on active duty through the administrative Retention Board based on a need for that officer's specific skills and unique qualifications. Naval Reserve officers on the active duty list in the grade of O-6 whose names are not on a promotion list to the next higher grade shall

(1) request transfer to the Retired Reserve if qualified;
or

(2) be released from active duty at the end of their current obligation/PRD unless retained through the administrative Retention Board; or

(3) be discharged on the 1st day of the month following in which the officer completed 30 years total commissioned service per 10 U.S.C. 6389 and 14706.

b. **Demobilization.** Reserve officers may be released from active duty as a part of general demobilization or reduction in authorized strength.

c. **Best Interest of the Naval Service.** When determined to be in the best interest of the naval service, Navy Personnel Command (NAVPERSCOM) may, in those cases where no other reason is set forth in SECNAVINST 1920.6 (series), release a Naval Reserve officer from active duty, without the requirement for the officer to be heard by a Board of Inquiry or any other formal board before release.

2. **Statutory Limitations.** The following statutory limitations exist regarding the release of Reserve officers from active duty:

a. **Sanctuary.** Under 10 U.S.C. 12683, 12684, 12685, and 12686, a Reserve officer who is on active duty and is within 2 years of becoming eligible for retired pay under a purely military retirement system will not be involuntarily released from that duty before they become eligible for that pay, unless their release is approved by the Secretary of the Navy upon recommendation, by a Board of Inquiry. Retirement under 10 U.S.C. 12731 has been held by the Comptroller General of the United States to be under a "purely military system." SECNAVINST 1920.6A, or as amended in the future, addresses this issue further.

b. **Active Duty Agreement.** A Reserve officer serving pursuant to an active duty agreement executed per 10 U.S.C. 12311 may not be involuntarily released from active duty during the period of the agreement because of a reduction in authorized personnel strength or for any other reason unless such release is recommended by a Board of Inquiry, except when he or she is

(1) dismissed or discharged under the sentence of court-martial; or

(2) released because of a conviction and sentence to confinement in a Federal or State penitentiary or correctional institution and the sentence has become final; or

(3) released under "Criteria for Release," above, for having twice failed of selection for promotion.

c. **Time of War.** A Reserve officer may be released from active duty (other than for training) in time of war or national

emergency declared by Congress or the President after
January 1, 1953, only upon the recommendation of a Board of
Inquiry approved by NAVPERSCOM, unless the officer waives the
board or his or her release is otherwise authorized by law.